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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application

PATENT APPLICATION

Inventor(s): James F. Zucherman
Ken Y. Hsu
T. Wade Fallin
Henry A. Klyce

Customer No. 23910

SC/Serial No.: 09/684,017

Filed: October 5, 2000

Title: SPINE DISTRACTION IMPLANT AND METHOD

CERTIFICATE OF MAILING UNDER 37 C.F.R. § 1.8

I hereby certify that this correspondence is being deposited in the United States Postal Service with sufficient postage as first class mail in an envelope addressed to **Box Missing Parts, Commissioner for Patents, Washington, DC 20231**, on January 3, 2001.

Sheldon R. Meyer, Reg. No. 27,660
Signature Date: January 3, 2001

(Attorney Signature)

RESPONSE TO NOTICE OF INCOMPLETE NONPROVISIONAL APPLICATION FILED
UNDER 37 CFR 1.53(b)

Commissioner for Patents
Washington, DC 20231

Sir:

In response to the Notice of Incomplete Nonprovisional Application, enclosed please find the following:

1. A complete copy of the specification, including claims as prescribed by 35 USC 112.
2. A copy of the Declaration filed in the parent case.
3. A copy of the Preliminary Amendment previously sent in this matter.

On page 2, the original transmittal letter submitting this continuation application (mailed October 5, 2000), Applicant requested that the specification be amended by inserting before the first line a sentence indicating which parent applications this continuation application was derived from, for purposes of claiming priority.

Applicant requests the following amendment be substituted for the above amendment on page 2 of the October 5, 2000 transmittal letter. The below amendment should be inserted in the specification before the first line of the application and should read as follows:

--Please AMEND the specification by inserting before the first line of the application: "This application is a continuation of Serial No. 09/361,513, filed July 27, 1999, which is a divisional of Serial No. 09/018,479, filed February 5, 1998, now U.S. Patent No. 6,074,390, which is a divisional of Serial No. 08/778,093, filed 1/2/97 now U.S. Patent No. 5,836,948 issued November 17, 1998."--

Respectfully submitted,

Date: _____

1/3/01

By: _____

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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
09/684,017	10/05/2000	James F. Zucherman	KLYC 1000USN SRM

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FORMALITIES LETTER



OC000000005620520

Date Mailed: 12/14/2000

NOTICE OF INCOMPLETE NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

A filing date has NOT been accorded to the above-identified application papers for the reason(s) indicated below.

All of the items noted below and a newly executed oath or declaration covering the items must be submitted within **TWO MONTHS** of the date of this Notice, unless otherwise indicated, or proceedings on the application will be terminated (37 CFR 1.53(e)).

The filing date will be the date of receipt of all items required below, unless otherwise indicated. Any assertions that the item(s) required below were submitted, or are not necessary for a filing date, must be by way of petition directed to the attention of the Office of Petitions accompanied by the \$130.00 petition fee (37 CFR 1.17(i)). If the petition states that the application is entitled to a filing date, a request for a refund of the petition fee may be included in the petition.

- The specification is missing.
A complete specification including at least one claim as prescribed by 35 U.S.C. 112 is required.

*A copy of this notice **MUST** be returned with the reply.*

Customer Service Center

Initial Patent Examination Division (703) 308-1202

PART 2 - COPY TO BE RETURNED WITH RESPONSE